

Item B Zoning

Zoning

Implementation

The bulk of this report has thus far focused on the elements of a vision for the future of Newton Centre. The purpose of this section is to discuss an implementation strategy for realizing this master plan. There are three major factors that must be considered: 1) zoning changes necessary to produce the types of structures and uses we want to encourage in the Centre; 2) financing options to pay for public and private sector improvements; and 3) phasing of construction projects to ensure limited disruption to the businesses and residents already there.

Zoning

The “Draft Newton Comprehensive Plan” calls for a “Flexible Moderate Growth” strategy for economic development in the City. This means a continuing focus on residential and village centers while seeking to enhance the urban amenities that make Newton such a favorable place to live. In particular, for village centers like Newton Centre, the Draft Comprehensive Plan recommends:

- a mixture of housing and commercial development;
- better parking options; and
- a partnership between commercial property owners and the City to promote a mix of businesses responsive to the needs of the residents. (Pages 6-6 and 6-7, October 2006, Draft Newton Comprehensive Plan).

Many of these recommendations can be implemented through the adoption of an overlay zone. Creating such a zone was one of the items in the Comprehensive Plan’s Economic Development Action Program (page 6-7).

Currently the underlying zone for the commercial area discussed in this report is either Business 1 or Business 2 (see zoning map below). We do not recommend changing this underlying zone, but instead establishing an overlay on top of the existing zoning. In some cases, the overlay zone may be more restrictive than the underlying zone (i.e. allowing banks or offices only on stories above ground level), in others more liberal (i.e. reducing setback requirements). The purpose of the overlay zone is to guide development in Newton Centre so that it becomes a more vibrant, cohesive, attractive and pedestrian-friendly community in which to live, work and visit.

Conventional use-based zoning codes regulate which uses are allowed where and have been utilized throughout the country since the early 20th century. Zoning restrictions were initially put in place to separate sometimes noxious commercial uses from housing and other types of uses. In suburban communities, times have changed and the population has grown. Now, more and more people are choosing to live in mixed use and densely populated areas. Town centers in the suburbs-- where you can step outside your home and are able to choose from a myriad of

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activities from meeting a friend for coffee, browsing in a bookstore or watching an outdoor concert -- are where many people want to live. With energy costs on the rise, people are looking for a better quality of life that includes green space and a pleasant place to live without having to drive everywhere. Newton Centre is a prime location for this type of environmentally friendly, urbane lifestyle. The public infrastructure already exists with good access to public transportation. All that is missing are housing opportunities in the center and a diversity of uses that attract people to the streets at different times of the day and night.

Form-based zoning codes are a relatively new concept which address the relationship between building facades and public space, the form and mass of buildings in relation to each other and the scale and types of streets and blocks. It can regulate development at the individual building scale and often reflects a diversity of architecture, materials, uses and ownership operating within a communal vision and legal framework. Form-based code is presented in diagrams and text. A regulatory plan that designates the appropriate form and scale of development rather than only the land use types is in contrast to the focus of conventional zoning on permissible property uses and control of development through numerical parameters such as FAR, height limits, setbacks and parking ratios. A Newton Centre overlay zone should be a hybrid, which includes:

1. Regulating plan or map of the area designating where different building form standards apply
2. Building form standards, which regulate the features and functions of buildings.
3. Public space and street standards with specifications for the sidewalks, travel lanes, street trees, benches, etc.
4. Architectural standards, which control external architectural materials and quality.
5. A list of uses allowed by right and by special permit including where these uses may be located.
6. Parking requirements that allow for shared parking on private properties and public facilities.
7. Administration, which includes a clearly defined application and project review process.
8. Annotations and definitions to explain the use of technical terms and intention of specific code provisions.

Dimensional Standards

In this report, we do not attempt to write the actual code of the overlay zone. That is a technical task better left to lawyers experienced in this field. However, we do make recommendations about provisions that should be included in the overlay zone. The Public and Private Sector

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Design Guidelines, described in detail earlier in this report, should be used as the basis for points 1 through 4 above. Chart 1 below highlights the changes recommended in an overlay zone with respect to site design.

Chart 1: “Dimensional Standards”

Zone	Business 1 (Existing)	Business 2 (Existing)	Overlay Core (Proposed)	Overlay Transition (Proposed)
Min. lot area	10,000	10,000	10,000	10,000
Stories	2, 3 ¹	2, 3 ¹ , 4 ¹	n/a ²	n/a ²
Height (in feet)	24, 36 ¹	24, 36 ¹ , 48 ¹	Min. 36, Max. 60	Min. 24, Max. 48
FAR	1, 1.5 ¹	1.0, 1.5 ¹ , 2.0 ¹	3.0	1.5
GFA	10,000-19,999	10,000, 19,999	10,000-49,999	10,000-34,999
Need Special Permit for GFA	20,000+	20,000+	50,000+ ³	35,000+ ⁴
Front Setback	Avg. ⁵	Avg. ⁵ , Avg. ⁵ , ½ building height	0	Min. 0, Max 15 ⁶
Side Setback	½ building height	½ building height	0 ⁷	10
Rear Setback	0 ⁸	0 ⁸	15 ^{9,10}	15

¹ With Special Permit

² Number of stories is only limited by the building height

³ The 75th percentile lot size in the Core Area is more than 16,000 ft². A development on a lot this size with an FAR of 3.0 would be approximately 50,000 ft²

⁴ The 75th percentile lot size in the Transition Area is almost 21,000 ft². A development on a lot this size with an FAR of 1.5 is almost 32,000 ft²

⁵ (Height+Width+Length)/3

⁶ Lots directly abutting residential zones shall have 15' setbacks from the property line abutting the residential zone.

⁷ Building façade may not be more than 200' without a break of 5' for a pedestrian walkway (see Design Guidelines)

⁸ Unless abutting a public use or residential zone

⁹ To facilitate courtyards in the backs of buildings

¹⁰ Setbacks shall be 0' along all street frontages. If the lot has street frontages in the front and back, interior courtyards shall be built instead of requiring 15' rear setback.

An increase in the allowable FAR shall be permitted if the proposed development:

1. Significantly exceeds the minimum requirement for sustainable architecture (see Sustainability Guidelines in the Appendix of this report.).
2. Includes a parking lot or parking structure that is either deeded to the City as public parking or is available for use by the public (see Parking Section).
3. Includes more than the recommended 20% affordable housing units (see Housing Section).
4. Includes a 5' pedestrian alleyway.

Uses

Some uses currently allowed in the Business 1 and Business 2 zones, such as auto-oriented businesses, are not conducive to creating the vibrant, pedestrian-oriented village center we want in Newton Centre. Other uses, such as banks, may be more appropriately located on upper

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stories of buildings rather than on the street level where they interrupt the active streetscape. We understand that many of these uses already exist in Newton Centre and adoption of an overlay zone will not affect existing tenancies. Instead, the regulations should be changed so that no new “less-desirable” businesses move into the area in the future and in the event that a current tenant voluntarily decides to relocate, another similar use cannot takes its place.

Further, there are other uses, such as outdoor cafes, which would add to the overall pedestrian and business experience, but are not allowed at all in Newton Centre or require a difficult approval process under current zoning. The overlay zone should include provisions that encourage these types of uses. Chart 2 below highlights some, but not all, allowed uses and the changes we recommend to uses in Newton Centre under an overlay.

Chart 2: Existing and Proposed Uses in Newton Centre

Use	Business 1(Existing)	Business 2 (Existing)	Overlay Core (Proposed)	Overlay Transition (Proposed)
Office	P	P	P, only on 2nd and 3rd floors	P, not allowed on ground floor
Bank, excluding drive-in facilities	P	P	P, only on 2nd and 3rd floors	P, not allowed on ground floor
Barbershop or beauty salon	P	P	P, only on 2nd and 3rd floors (restriction also applies to day spas and nail salons)	P, not allowed on ground floor
Dwelling units above the first floor, provided the first floor is used for a use allowed in Section 30-11(a)(1)-(11)	P	P	P, only housing is allowed above the 3rd floor	P
Accessory parking facilities, provided that such facilities are limited to a single level	P	P	Multi-level parking garages are permitted	P
Non-accessory parking facilities or multi-level accessory parking facilities	SP	SP	P, if ground floor includes retail uses	P, if ground floor includes retail uses

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Multi-family dwellings	SP	SP	P, provided that the ground floor is used for retail and that 20% of the units are affordable as defined by the City's inclusionary housing ordinance (Section 30-24(f))	P, provided that 20% of the units are affordable as defined by the City's inclusionary housing ordinance (Section 30-24(f))
Drive-in businesses	SP	SP	NP	NP
Fuel Establishment	NP	SP	NP	NP
Garage Repair Shop	NP	SP	NP	NP
Indoor motor vehicle sales and service	NP	SP	NP	NP
Drive-in food establishments	NP	SP	NP	NP
Outdoor seating for restaurants in a privately-owned courtyard	N/A	N/A	P*	P*
Outdoor seating for restaurants, up to 10 seats allowed in a public right-of- way	N/A	N/A	P*, limited to 10 seats by approval of the Newton Centre Design Review Board provided the owner "leases" the right-of-way from the City. More seats allowed by SP	P*, limited to 10 seats by approval of the Newton Centre Design Review Board provided the owner "leases" the right-of-way from the City.
Payment of fee in lieu of providing on-site parking	N/A	N/A	P	P
Development with parking requirement provided off-site within 1200 feet of the building or use	N/A	N/A	P, with evidence of an agreement	P, with evidence of an agreement
Parking shared between more than one use	N/A	N/A	P, with evidence of an agreement	P, with evidence of an agreement

P= Permitted by-right, SP=Permitted with Special Permit, NP=Not Permitted, N/A= Not applicable

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* Since outdoor seating is seasonal in Newton, the first 10 outdoor seats are not counted toward the parking calculation for the primary use.

In addition to these proposed changes to uses in the Business 1 and Business 2 zones in Newton Centre, the overlay zone shall also include a provision allowing a building to be built on land currently zoned as public use. This building may be used partially, but not wholly, for public use.

Parking

The Parking section of this document generally addresses point 6 with options for shared parking and fees in lieu of providing on-site parking. More specifically, the overlay zone should include the following parking provisions.

- New uses or development: No use of any premises shall be authorized or extended and no building or structure shall be erected or enlarged unless parking demands are addressed by:
 - (1) providing parking on-site;
 - (2) providing parking off-site within a private parking lot or a private parking structure within 1200 feet of the principal building, structure or use on the premises;
 - (3) providing parking off-site within a municipal parking lot within 1200 feet of the principal structure or use on the premises;
 - (4) payment of fees in-lieu of parking;
 - (5) a combination of the above options;
 - (6) complying with provisions of a required special permit
- Off-site parking shall not be separated from the use by any feature that would make pedestrian access inconvenient or hazardous. The site on which the parking is located shall be owned, leased or otherwise controlled by the party controlling the use.
- Existing uses: To maximize use of available parking, businesses with different hours of operation may use the same spaces at different times of the day with approval of the Planning Director upon the finding that the times of usage do not coincide.
- When a private lot or parking structure is proposed to satisfy the parking requirements, a recordable lease or easement of adequate duration must be provided to the permit-granting authority that states the basis for compliance with current Zoning Regulations.
- Fee in Lieu of Parking: Instead of providing some or all of the required parking on- or off-site, parking needs may be met through payment of in-lieu fees. The amount of in-lieu fees shall be based on the current cost of constructing a parking space in the greater Boston area. Such fees may be paid (1) in lump sum or (2) annually and amortized over 10 years. The fee per space shall be updated annually based on the cost of living index for the greater Boston area. Such fees will be deposited into a City "Parking Fund" to be used solely for the development or maintenance of parking that satisfies the demand requirements of new development within the overlay area.

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➤ Parking Calculations.

1. Parking requirements shall be as provided in the proposed parking standards for Newton Centre and reduced by the modal split indicated in the most recent census. The modal split is the percentage of people that drive to an area. (In the year 2000, 65% of all visitors to Newton Centre drove their cars and the remainder arrived by other means. E.g., If City standards require a business to provide 100 parking spaces, this number would be multiplied by .65 and the number of parking spaces required would be 65.) When the calculation of required parking results in a fractional number, it shall be rounded to the next highest whole number if the fraction is one-half or more; otherwise it shall be rounded down to the next lowest whole number.
2. Tandem parking. For residential uses, when parking spaces are identified for the exclusive use of occupants of a designated dwelling required spaces may be arranged in tandem (one space behind the other) subject to approval of the Planning Director.
3. Bicycle Parking. Bicycle parking shall be provided as required by the Zoning Regulations. All bicycle spaces shall be located at the ground floor level. Projects that provide more bicycle spaces than required may reduce the required car spaces at the rate of one car space for each additional five bicycle spaces up to a 10% reduction.

Approval Process

An overlay should address Point 7, clearly stating the project review process. Under current zoning, property owners must obtain a Special Permit from the Board of Alderman for almost any change in use or density. Although technically the Zoning Ordinance allows some new development in Newton Centre by-right (without a Special Permit), the reality is that most of the existing lots and structures are non-conforming or the owners are unable to meet on-site parking requirements. As a result, they must apply for a Special Permit. Special Permits are discretionary and approval requires an affirmative vote of two-thirds of the Board of Aldermen (16 out of 24). The Special Permit process can drag on for several years and can be very expensive with no guarantee of an approval in the end.

Because of this arduous process, many developers and property owners have chosen not to redevelop their property or have decided to do so in a way that purposely avoids the Special Permit process. Often such by-right developments are detrimental to the overall cohesiveness of Newton Centre. As part of the overlay zone, the Aldermen should establish an alternative approval process for properties within the boundaries of the Newton Centre overlay. Through a more transparent process, the City will have more control over development while still be able to encourage building that enhances the streetscape and vitality of the Centre. Specifically, we recommend the following:

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- Increase the maximum gross floor area (GFA) of a building as of right, before a Special Permit is required (see Chart 1);
- Establish a Newton Centre Design Review Board of seven (7) members appointed by the Mayor and confirmed by the Aldermen consisting of two (2) Aldermen, two (2) architects, one (1) planner, one (1) landscape architect and one (1) civil engineer;
- Provide the Design Review Board with the authority to approve developments under the Special Permit threshold provided the projects comply with the Design Guidelines adopted as part of the overlay zone.
- If the project does not adequately comply with the Design Guidelines, the Special Permit process described in the underlying zone must be followed. (i.e. in the Business 1& 2 zones, any project over 20,000 sq. ft. must be approved by a 2/3 majority of the Board of Aldermen.)